

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF NEBRASKA

IN THE MATTER OF:)	
)	
HAES CONTRACTING, INC.,)	CASE NO. BK15-41190
)	A15-4042
)	
Debtor(s).)	CHAPTER 7
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IN THE MATTER OF:)	
)	
SCOTT HAES and MARCIE HAES,)	CASE NO. BK15-41191
)	A15-4043
)	
Debtor(s).)	CHAPTER 7
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DEVELOPERS SURETY & INDEMNITY)	
COMPANY, an Iowa corporation,)	
)	
Plaintiff,)	4:14CV3135
)	
vs.)	
)	
HAES CONTRACTING, INC., a Nebraska)	
corporation; SCOTT HAES, an individual,)	
and MARCIE HAES, an individual,)	
)	
Defendants.)	

REPORT & RECOMMENDATION

This matter is before the court upon referral by the United States District Court for the District of Nebraska (Fil. No. 1).

The Haes Contracting company obtained performance and payment bonds from Developers Surety and Indemnity Company for its work as a subcontractor on an erosion control project in Iowa for the U.S. Army Corps of Engineers. Scott and Marcie Haes, individually and on behalf of Haes Contracting, agreed to indemnify the surety. After Haes Contracting allegedly breached its contract with the general contractor by failing to complete its portion of the work on the project, lawsuits were filed among the general contractor, the subcontractor, and the surety. The lawsuits were settled, but the surety seeks reimbursement through the indemnity agreement for its litigation costs. To that end, it sued the Haeses and Haes Contracting in federal district court on June 26, 2014. The court granted the surety's motion for summary judgment as to liability on July 8, 2015, with damages to be determined.

The defendants subsequently filed Chapter 7 bankruptcy petitions on July 29, 2015. Their counsel filed a suggestion of bankruptcy in the district court lawsuit and requested a stay of all further proceedings until disposition of the bankruptcy proceedings.

In response to the suggestion in bankruptcy, the district court referred the case to the

bankruptcy court. However, Local Rule NEGenR 1.5(a)(1) was amended in December 2014 to allow the district court to stay the litigation as against the party in bankruptcy until a party requests referral of the case to the bankruptcy court. Here, no party has requested such a referral.

Accordingly, I respectfully recommend to the United States District Court for the District of Nebraska that it withdraw the reference of this case and stay all proceedings until such time as the automatic stay is lifted or the bankruptcy case is dismissed.

The Clerk of the Bankruptcy Court shall process this recommendation pursuant to the local court rules.

DATED: August 3, 2015.

RESPECTFULLY SUBMITTED,

/s/ Thomas L. Saladino
Chief Judge

Notice given by the Court to:
Victor C. Covalt III
Jason S. Leiker
Shane C. Mecham
John C. Hahn
U.S. Trustee